



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

David T. Marshall, DVM
State Veterinarian

December 17, 2009

Ms. Jeanette Baldwin
Urban Dog Outsitters
7051-A Cliffdale Road
Fayetteville, NC 28314

Certified Mail
Return Receipt Requested

7006 2760 0003 0472 2051

NOTICE OF CIVIL PENALTY

RE: VIOLATIONS OF N.C. ADMINISTRATIVE CODE CHAPTER 52J, SECTION .0201 & .0207

Dear Ms. Baldwin:

Ms. Pat Sholar, Animal Health Technician with the North Carolina Department of Agriculture & Consumer Services, Animal Welfare Section, Veterinary Division, conducted two inspections within a one month period at your facility and discovered specific conditions and/or practices amounting to repeated failure to comply with the requirements of 02 NCAC .0201 and .0207. Failure to comply with the requirements established in these rules constitutes grounds under N.C. General Statute § 19A-40, for this Department to assess a civil penalty against you. The civil penalty assessment is attached.

Within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the Office Of Administrative Hearings (OAH) appealing the penalty assessment.

Pursuant to N.C. Gen. Stat. § 150B-22, the parties may initiate settlement negotiations at any time. To negotiate a settlement of this assessment, present your offer to Dr. David T. Marshall, State Veterinarian, who may be contacted by telephone at 919/733-7601. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

TO PAYMENT
To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. David T. Marshall
State Veterinarian
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. Gen. Stat. § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings.

File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone 919/733-0926. You must serve NCDA&CS by mailing a copy of the petition to:

Mr. Ray Starling
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,



Lee Hunter, DVM, MPH
Director, Animal Welfare Section

JLH/mwb

Attachment: Assessment Document

cc: Mr. Barry Bloch, Assistant Attorney General
Mr. Howard Isley, Assistant Commissioner
Mr. Ray Starling, Legal Affairs
Ms. Pat Sholar, Animal Health Technician
Ms. Dianne Whitman, Administrative Officer

IN THE MATTER OF)
) CIVIL PENALTY ASSESSMENT
MS. JEANETTE BALDWIN)
) PURSUANT TO THE ANIMAL WELFARE ACT
) N.C. General Statute § 19A-40
)
) NCAC 52J, SECTION .0201 & .0207

Acting pursuant to N.C. Gen. Stat. § 19A-40 and 2 N.C. Administrative Code Sections 52J .0101, et. seq., Dr. David T. Marshall, State Veterinarian, NCDA&CS makes the following:

I. FINDINGS OF FACT

1. At all times pertinent to the following findings, Ms. Jeanette Baldwin held the license, **No. 10732**, to operate Urban Dog Outsitters, a boarding kennel facility located at 7051-A Cliffdale Road, Fayetteville, NC 28314 (hereinafter, the “facility”).
2. On 3 November 2009 Ms. Sholar inspected the facility and found unsanitary conditions within and outside the facility, including:
 - old feces in the play yard, kennels and indoor play room,
 - floors were dirty from feces,
 - runs (kennels) showed evidence consistent with a failure to clean for several days.
3. Ms. Sholar completed an inspection report detailing the unsanitary conditions on 3 November 2009. Mr. Jarred Baldwin signed the report and received a copy of it.
4. During a follow-up inspection conducted on 4 November 2009, Ms. Sholar determined that the facility had been cleaned sufficiently to comply with minimum state standards. Ms. Sholar completed an inspection report detailing the improved conditions on 4 November 2009. Mr. Jarred Baldwin signed the report and received a copy of it.
5. The North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, issued Ms. Baldwin a “Notice of Warning for Failure to Comply with the NC Administrative Code” addressed to the facility on 16 November 2009, by registered US Mail, return receipt requested. The Animal Welfare Section received a notice of receipt for this letter signed by Mr. Jarred Baldwin on 18 November 2009.
6. On Tuesday, 1 December 2009, Ms. Pat Sholar again visited the facility to perform a repeat inspection.
7. Conditions found at the time of the repeat inspection included:
 - Strong urine odor noted in the kennel room;
 - Old feces in outdoor pens and exercise yard;
 - Individual kennels had dirty walls and floors with urine, hair and feces;
 - Buildings and grounds were dirty;
 - The outside of the door to the isolation room had been damaged by dogs scratching and chewing the door frame and door, indicating that dogs had been left unattended.

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, alleges that Ms. Baldwin either by act or omission violated the following provision of the North Carolina General Statutes:

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

02 NCAC 52J .0201 GENERAL

(e) Provisions shall be made for the daily removal and disposal of animal and food waste, bedding and debris from the housing facility in accordance with local ordinances, to assure facility will be maintained in a clean and sanitary manner.

02 NCAC 52J .0207 SANITATION

(a) Waste shall be removed from primary enclosures and exercise areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats must be properly cleaned a minimum of two times per day.

II. CONCLUSIONS OF LAW

- A. Ms. Baldwin violated 2 N.C. Administrative Code 52J .0201 and .0207 and may be assessed a civil penalty of up to \$5,000.00 per violation pursuant to N.C. Gen. Stat. § 19A-40.
- B. The Director, Animal Welfare Section, pursuant to N.C. Gen.Stat. § 19A-40 has the authority to assess civil penalties in this matter.

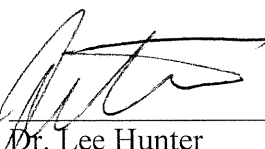
III. DECISION

As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violation of N.C. Gen. Stat. § 19A-20 and 2 N.C. Administrative Code 52J .0201 and .0207.

Accordingly, Ms. Baldwin is assessed a civil penalty of: two hundred fifty dollars (\$250.00) for violating 2 N.C. Administrative Code 52J .0201 and .0207.

\$250.00 TOTAL AMOUNT ASSESSED

17 Dec 2009
Date


Dr. Lee Hunter

Director of Animal Welfare Section